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July 25, 2014

Via E-mail tony@tonyvortizlaw.com & US Mail

Tony F. Ortiz, Esq.
Attorney at Law, LLC
2011 Botolph Rd., Suite 200
Santa Fe, N.M. 87505

Re: Annette Rodriguez's IPRA Requests to Northern New Mexico College

Dear Mr. Ortiz

Our law firm represents Annette Rodriguez in her pursuit of public records from Northern New Mexico College. Ms. Rodriguez referred to me your June 24, 2014, letter stating that the College is (1) refusing to respond to her request to inspect public records within a reasonable period of time and (2) seeking to admonish her and restrict the exercise of her rights under New Mexico law.

As you know, it is the declared policy of the State of New Mexico that "all persons are entitled to the greatest possible information regarding the affairs of government and the official acts of public officers and employees." NMSA 1978, § 14-2-5 (1993). It is difficult to understand your insistence on taking note of Ms. Rodriguez's status as a former employee of the College. As you know, IPRA requests are not restricted to certain segments of the population; indeed, the statute is clear: "*Any person* wishing to inspect public records may submit an oral or written request to the custodian." § 14-2-8 (1993) (emphasis added). "No person requesting records shall be required to state the reason for inspecting the records." *Id.*

A general response stating that it will take six months to respond to Ms. Rodriguez's requests is inadequate without further explanation as to why at least most of the requests for specific documents of relatively short length cannot be produced immediately. For example, the El Rito Water Memorandum of Understanding should not take six months to produce. Nor should the contract with your law firm or the Basham firm, as well as billing statements. Neither is it apparent why the simple \$5,000 contract with H&H Investigators and related expense sheets cannot be produced in due course. I could go on. Some of the documents are distributed routinely at monthly Board of Regents meetings. Nowhere do you indicate why these clearly delineated and accessible documents are impossible to produce in less than six months' time.

Your intransigence is particularly curious considering that your custodian of public records, Ms. Cordova, previously assessed these requests and indicated that the requests would be filled between June 20th and July 18th, 2014. That's a matter of mere weeks (rather than months), suggesting that the requests were not unreasonable, unduly burdensome, or impossible to fulfill.

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A press release issued by the College indicates that the cost of complying with records requests from all parties is a concern. Note that the New Mexico Court of Appeals has said that, in certain circumstances, "[t]he interest in protecting public funds does not outweigh the public interest in accessing public records" when citizens are seeking to "encourage accountability in public officials and employees." *Board of Com'rs of Dona Ana County v. Las Cruces Sun-News*, 2003-NMCA-10, ¶ 29, 134 N.M. 283, 76 P.3d 36.

You are required to provide Ms. Rodriguez with a written explanation of the denial that describes each record sought and the reasons for the denial. A blanket complaint of "burdensome" is insufficient, especially in light of the records custodian's initial willingness to comply to the request within an arguably reasonable period of time.

Do know that if inspection is not permitted within a reasonable time, we will consider the request denied and pursue remedies available under the Act, including penalties of \$100 per day, plus court costs and attorney's fees.

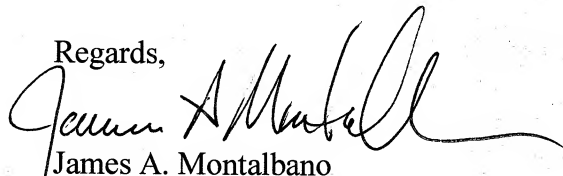
Finally, I am bewildered by your admonition to Ms. Rodriguez to cease contact with the College's custodian of public records. I'm curious as to the legal basis for denying a member of the public lawfully protected access to records kept by a public institution of higher learning. Under what legal theory must a member of the public go through a college's attorney in order to request public records (or in order to communicate with appointed public officials)? A further explanation of your "order" to Ms. Rodriguez would be appreciated.

Ms. Rodriguez and other members of the public have a basic right to the public documents generated by a tax-supported college. "IPRA is intended to ensure that the public servants of New Mexico remain accountable to the people they serve." *San Juan Agric. Water Users Ass'n v. KNME-TV*, 2011-NMSC-011, ¶ 16, 150 N.M. 64, 257 P.3d 884.

Refusing to turn over documents until mid-December does not constitute a reasonable period of time to permit the records to be inspected. We will expect an appropriate response to all IPRA requests – those made since May and up until this date – within fifteen (15) days. If no response is forthcoming, we will proceed toward legal action to remedy this breach of the public's right to know.

I appreciate your attention to this matter, and I thank you in advance for the College's compliance in fulfilling this request to inspect public records.

Regards,



James A. Montalbano

cc: Gary King, New Mexico Attorney General
Annette Rodriguez